

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

MAY 04 2016

JH

for the

District of New Mexico

United States of America

v.

Alexander Balding

MATTHEW J. DYKMAN
CLERK

Case No.

16 mj 2015

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 11, 2016 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:

Code Section

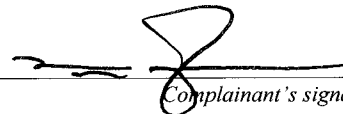
18 U.S.C. Sec. 2252(a)(2)
18 U.S.C. Sec. 2252(a)(4)(B)

Offense Description

Distribution of child pornography, and
Possession of child pornography.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Ross Zuercher, Special Agent - FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

May 4, 2016

City and state:

Albuquerque, New Mexico



Judge's signature

Steven C. Yarbrough

Printed name and title

U.S. Magistrate Judge

AFFIDAVIT

Your Affiant, Ross Zuercher, having been duly sworn, does hereby depose and say:

Introduction

- I have been a Special Agent (SA) of the Federal Bureau of Investigation (FBI), United States Department of Justice, since August 2012. As such, I am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request arrest warrants. I am currently assigned to the FBI’s Albuquerque Violent Crime Program, as such, I am authorized to investigate crimes against children. The information set forth in this affidavit was derived from my own investigation and/or communicated to me by other sworn law enforcement officers of the FBI, the Bernalillo County Sheriff’s Office (BCSO) and the New Mexico Attorney General Office (NMAG). Because this affidavit is submitted for the limited purpose of securing an arrest warrant, your Affiant has not included each and every fact known to me concerning this investigation. Your Affiant has set forth only those facts that your Affiant believes are necessary to establish that probable cause to support a criminal complaint against Alexander Balding in violation of Title 18 U.S.C. §§ 2252(a)(2) and (a)(4)(B).

Relevant Statutes

- This investigation concerns alleged violations of certain activities relating to material involving the sexual exploitation of minors; Title 18 U.S.C. §§ 2252(a)(2) and (a)(4)(B).
 - 18 U.S.C. § 2252(a)(2) and (b)(1), provide, in relevant part, that any person who knowingly receives, or distributes, any visual depiction using any means or facility of interstate or foreign commerce or that has been transported in or affecting interstate or foreign commerce, or which contains materials that have been transported in or affecting interstate or foreign commerce, by any means including by computer or knowingly reproduces any visual depiction for distribution using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, or any person who attempts to do so, shall be guilty of a federal offense. Title 18, United States Code, Sections 2252A(a)(2) and (b)(1) provide, in relevant part, that any person who knowingly receives or distributes any child pornography or any material that contains child pornography that has been mailed, or using any means or facility of interstate or foreign commerce transported in or affecting interstate or

foreign commerce by any means, including by computer, or any person who attempts to do so, shall be guilty of a federal offense.

- 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2) provide, in relevant part, that any person who knowingly possesses, or knowingly accesses with intent to view any visual depiction that has been transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been so transported, by any means including by computer, if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, or any person who attempts to do so, shall be guilty of a federal offense. Title 18, United States Code, Section 2252A(a)(5)(B) and (b)(2) provide, in relevant part, that any person who knowingly possesses, or knowingly accesses with intent to view, any material that contains an image of child pornography that has been transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been transported in or affecting interstate or foreign commerce by any means, including by computer, or any person who attempts to do so, shall be guilty of a federal offense.
- The term “child pornography” is defined at 18 U.S.C. § 2256(8). It consists of visual depiction of sexually explicit conduct where (a) the production of the visual depiction involved the use of a minor engaged in sexually explicit conduct, (b) the visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct, or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct), as well as any visual depiction, the production of which involves the use of a minor engaged in sexually explicit conduct. *See* 18 U.S.C. §§ 2252 and 2256(2), (8).
- The term “sexually explicit conduct” is defined at 18 U.S.C. § 2256(2) and consists of actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any persons. *See* 18 U.S.C. § 2256(2).
- The term “minor” means any person under the age of eighteen years. *See* 18 U.S.C. § 2256(1).

Technical Terminology

- Peer-to-peer (P2P) network - A decentralized network of computers that work together to request and send files to each other. The user who uses P2P software will indicate a folder or series of folders on the computer as being "shared" with the other computers on the P2P network. Using keyword searches, a user can search for files contained in other P2P users' folders and then download them to his/her computer. Law enforcement does monitor these networks, and using investigative techniques, can identify child exploitation files that contain graphic content. Law enforcement can download these files to view them and verify that they are in fact child pornography. Law enforcement can obtain the Internet Protocol (IP) address of the person who had the file(s) to secure their physical location.
- Internet Protocol (IP) address - An unique identifier tied to every internet account in the world, and is how internet traffic finds its destination. IP addresses are managed by internet service providers (ISPs), like Comcast or CenturyLink, and those ISPs assign their customers an IP address when they activate their account. When law enforcement identifies an IP address during the course of an investigation, they can serve legal process on the ISP to obtain a physical address that the IP belongs to.

Details of the Investigation

- On April 26, 2016, the FBI received a report from BCSO regarding Alexander Balding (BALDING). According to the report, BALDING had knowingly possessed and distributed child pornography to include photographs of prepubescent children.
- On Wednesday, April 6, 2016, Special Agent Owen Pena of the New Mexico Attorney General Crimes Against Children Task Force was conducting an online investigation on the BitTorrent network for offenders sharing child pornography. I directed my investigative focus to a device at IP address 98.230.199.5 (Port: 46338), because it was associated with a torrent with the InfoHash: "ea94231215cab329b9b9295fb9e81e57087a6db4."
This torrent file references 1605 files, at least one of which was identified as being a file of investigative interest to child pornography investigations.
- Using a computer running investigative BitTorrent software, SA Pena directly connected to the device at IP address 98.230.199.5 (hereinafter referred to as SUSPECT DEVICE"). The SUSPECT DEVICE reported it was using BitTorrent client software -UT3450- µTorrent 3.4.5.
- Between Wednesday, April 6, 2016 at 11:54 hours MT and Thursday, April 7, 2016 at 09:50 hours Mountain Standard Time (MST), SA Pena successfully completed the single-source download of 59 files that the device at IP address 98.230.199.5 was making available for share. The device at IP Address 98.230.199.5 was the sole candidate for each download, and as such, each file was downloaded directly from

this IP Address.

- SA Pena then looked through the file structure of InfoHash: “ea94231215cab329b9b9295fb9e81e57087a6db4” and observed that in the folder titled: “AG-199,” inside this folder was the sub-folder titled: “個人攝影]和蘿莉塔圖像攙雜裝.” Inside this folder were sub-folders titled: “low,” “. . . .,” “. . . .,” “” . ,,” “\$. 影,” including 13 image files and the above-listed 59 files of interest.
- SA Pena reviewed some of the above-listed downloaded files and they are described as follows:
- 115.JPG (SHA1: 257BP3DVTHODY7IAPW3OSNGAE6CYVGAF) (Located Inside Sub-Folder: “low”) – This color .jpg image file depicts a naked pre-pubescent Asian female or girl sitting in a yellow inner-tube and in an outside setting. The young girl’s legs area spread far apart in a lewd or lascivious manner and with her genitalia facing towards the camera. The young girl’s breast area, vaginal area and vaginal opening are visible. With the focal point of the image being the young girl’s vagina and vagina opening. I believe this young girl to be between 7 and 10 years of age, due to her body size comparison/development, no breast development and no pubic development.
- 021642.jpg (SHA1: FBVB7NYP1XS6LOFNMUQ2FSBLECB5EPXL) (Located Inside Sub-Folder: “low”) – This color .jpg image file depicts a naked pre-pubescent Asian female or girl standing in an outside setting and with a orange towel around her back. The young girl’s legs area spread far apart in a lewd or lascivious manner and with her genitalia facing towards the camera. The young girl’s breast area, vaginal area and vaginal opening are visible. With the focal point of the image being the young girl’s vagina and vagina opening. I believe this young girl to be between 6 and 9 years of age, due to her body size comparison/development, no breast development and no pubic development.
- enkou66_013.jpg (SHA1: SY4C7IS27LNDHNLSVQAT4TRQA3RP4AYA) (Located Inside Sub-Folder: “low”) – This color .jpg image file depicts a clothed pre-pubescent Asian female or girl standing in an outside setting and pulling her dress up. The young girl also is pulling her underwear down. The young girl’s legs area spread far apart in a lewd or lascivious manner and with her genitalia facing towards the camera. The young girl’s vaginal area and vaginal opening are visible. With the focal point of the image being the young girl’s vagina and vagina opening. I believe this young girl to be between 6 and 9 years of age, due to her body size comparison/development, no apparent breast development and no pubic development.
- gl_08_062.JPG (SHA1: 3NDX7GCUIVYRJ2ON7GEMRHM76NQI2O) (Located Inside Sub-Folder: “low”) – This color .jpg image file depicts a semi-naked pre-pubescent Asian female or girl sitting on a cement step and in an outside setting. The young girl is naked from the waist up and wearing no underwear under her red skirt. The young girl’s legs area spread far apart in a lewd or lascivious manner and

with her genitalia facing towards the camera. The young girl's breast area, vaginal area and vaginal opening are visible. With the focal point of the image being the young girl's vagina and vagina opening. I believe this young girl to be between 6 and 9 years of age, due to her body size comparison/development, no breast development and no pubic development.

- On Thursday, April 7, 2016 SA Pena conducted a query on the IP address 98.230.199.5 through the American Registry for Internet Numbers (ARIN). ARIN reported IP address 98.230.199.5 to be registered to Comcast Cable Communications, Inc.
- On Thursday, April 7, 2016, at or about 16:30 hours MST, SA Pena obtained a Grand Jury Subpoena *duces tecum* from the 2nd Judicial District Court of New Mexico for Comcast Cable Communications, Inc. and for IP address 98.230.199.5.
- On Monday, April 11, 2015: SA Pena received the sought after information from Comcast Cable Communications, Inc, who responded back with the subscriber information for IP address 98.230.199.5, which showed the subscriber information as follows:

Subscriber Name: Sandra McKillop

Service Address: 3726 Espejo Street NE, Albuquerque, NM, 87111

Telephone #: 505-366-7463

Start of Service: 04/04/2013

User IDs: sandram2013@comcast.net

IP Address History: 97.123.143.246

MAC Address: C4:27:95:38:6F:89

Account Status: Active

IP Assignment: Dynamically Assigned

- SA Pena then placed all of the BitTorrent download evidence artifacts from RoundUp BitTorrent on a disc for Detective Kyle Woods of BCSO. Due to IP address 98.230.199.5 being located in Albuquerque, which is within Bernalillo County. This investigation was forwarded to Detective Woods.
- Detective Kyle Hartsock obtained a search warrant for the Residence and served the warrant on April 27, 2016.
- During the search of the Residence, BALDING was present and provided a statement. After waiving his Miranda rights, BALDING confessed to downloading child pornography using the uTorrent peer-to-peer file sharing platform. After downloading the child pornography BALDING stated that he moved most of the images on an external hard drive that was located on top of his computer. While moving the images, BALDING would organize them on the hard drive. BALDING stated that he downloaded more than 100 child pornography files and saved all of them. BALDING

said that he searched for child pornography by using different ages as search terms, as well as "preteen."

- A digital forensic examiner previewed the external hard drive mentioned by BALDING as containing child pornography and found several images depicting prepubescent girls in sexually explicit positions that included the lascivious display of the genitals. The preview was stopped, and the computer was seized so a full forensic examination could be conducted.

Interstate Nexus

- According to 18 U.S.C. §§ 2252(a)(2) and (a)(4)(B), interstate or foreign commerce must be affected. The external hard drive that was utilized to store and access the child pornography was a Buffalo Mini Station and manufactured in China. Your Affiant believes that because the computer hard drive was manufactured outside of the United States, interstate commerce has been affected in the commission of this offense.

Conclusion

- Based on all of the above information, your Affiant submits there is probable cause to believe that ALEXANDER BALDING, violated 18 U.S.C. §§ 2252(a)(2) and (a)(4)(B). Your Affiant requests an arrest warrant based upon the criminal complaint in this matter.
- Assistant United States Attorney Jonathan Gerson has authorized federal prosecution in this matter.
- I swear that this information is true and correct to the best of my knowledge.


Ross Zuercher, Special Agent - FBI

SUBSCRIBED and SWORN to before
me this 4th day of May, 2016.


United States Magistrate Judge